

MINUTES

INDIANA RESPIRATORY CARE COMMITTEE

APRIL 17, 2009

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Mr. Konkle called the meeting to order at 10:00 a.m. in Conference Center Room 5 of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana.

Committee Members Present:

Thomas Konkle, R.C.P., Chairman
Sally Park-Teelon, R.C.P., Member
Gary L. Smith, R.C.P., Member

Committee Members Absent:

Margaret Sullivan, Consumer Member

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Kristine Yarde, Assistant Board Director, Professional Licensing Agency
Heather Hollcraft, Case Manager, Professional Licensing Agency
Elizabeth Brown, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF THE AGENDA

A motion was made and seconded to adopt the agenda, as amended.

PARK-TEELON/SMITH
Motion carried 3-0-0

III. ADOPTION OF THE MINUTES

A motion was made and seconded to adopt the minutes of the January 23, 2009 meeting of the Committee.

PARK-TEELON/SMITH
Motion carried 3-0-0

IV. APPEARANCES

A. APPLICATION

1. Paul Keith Enderle

Mr. Enderle appeared before the Committee, as requested, regarding his application for licensure by endorsement. Mr. Enderle is a 1991 graduate of Oakland Community College and has taken and passed the National Board of Respiratory Care Examination on November 9, 1991. He is currently licensed in the states of Florida, Maryland and Michigan. Mr. Enderle answered "yes" to question #5a & b asking, "Have you ever been convicted of, pled guilty or nolo contendere to a violation of any Federal, State, or local law relating to the use, manufacturing, distribution, or dispensing of controlled substances or drug addiction? He also answered "yes" to question #5b asking, "Have you ever been

convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" Mr. Enderle explained approximately twenty-four (24) years ago he was arrested for possession marijuana with intent to sell and he pled guilty. He stated he has not taken any illegal drugs since March 17th, 1984. Mr. Enderle told the Committee he has worked in respiratory care since 1992 in Michigan and Maryland and around August 2008 he became a traveler for Comp Health. He explained he goes to AA meetings frequently and referred the Committee to a letter he had submitted from his AA sponsor. He stated he is currently working at Methodist Hospital and he likes it there and would like to stay if they offer him a permanent position. He advised he currently holds licenses in four other states.

Committee Action: A motion was made and seconded to grant Mr. Enderle a respiratory care license

SMITH/PARK-TEELON
Motion carried 3-0-0

2. **Dawn Lamoreaux**

Ms. Lamoreaux failed to appear before the Committee, as requested, regarding her application for licensure by endorsement. Ms. Lamoreaux is a 1991 graduate from Lansing Community College and has taken and passed the National Board of Respiratory Care Examination on July 20, 1991. She is currently licensed in Georgia, Texas and North Carolina. On her application he answered "yes" to question to question #5b asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" In 1999 her husband was diagnosed with end stage liver disease, and it was very stressful time. Ms. Lamoreaux received a DWI. She paid fines and was put on probation for a 1 year period.

Committee Action: A motion was made and seconded to deny Ms. Laoreaux's application file for a respiratory license for her failure to appear as requested and based upon her positive response to a conviction.

SMITH/PARK-TEELON
Motion carried 3-0-0

3. **David J. Schneider**

Mr. Schneider appeared before the Committee, as requested, regarding his application for licensure by endorsement. Mr. Schneider is a 2007 graduate of the Northern Kentucky University and passed the National Board of Respiratory Care Examination on May 10, 2007. He is currently licensed in the state of Kentucky. On his application he answered "yes" to question #5a asking, "Have you ever been convicted of, pled guilty or nolo contendere to a violation of any Federal, State, or local law relating to the use, manufacturing, distribution, or dispensing of controlled substances or drug addiction?" He also answered "yes" to question #5b asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" Mr. Schneider explained when he was eighteen (18) he was arrested for misdemeanor marijuana possession and the charge has since been expunged from his records. In 2002 he was pulled over for a seatbelt violation and his girlfriend had marijuana in her possession but he was charged as well since he was driving the vehicle. Mr. Schneider told the Committee he has not been in trouble since that time and does not associate with people who use drugs. He stated he currently

works for a home care company in Cincinnati and may occasionally need to work in Indiana.

Committee Action: A motion was made and seconded to grant Mr. Schneider a respiratory care license.

KONKLE/PARK-TEELON

Motion carried 3-0-0

4. John Walker

Mr. Walker appeared before the Committee, as requested, regarding his application for licensure by endorsement. Mr. Walker has not graduated from an approved program in respiratory therapy. He did complete and pass the National Board of Respiratory Care Examination on December 6, 1975. Mr. Walker is seeking a waiver of the education requirement in lieu of his employment history working actively in patient care for ten (10) of the last fifteen (15) years. Mr. Walker was grandfathered in Florida he recounted his work history dating back to 1994.

Committee Action: A motion was made and seconded to grant Mr. Walker a respiratory care license.

KONKLE/SMITH

Motion carried 3-0-0

B. PROBATION

There was no probation appearances scheduled.

C. RENEWAL

There was no renewal appearances scheduled.

D. SUPERVISOR

1. Connie Little, St. Francis Hospital

Ms. Little appeared before the Committee, as requested, to explain how it was possible that an employee worked in the hospital for one year without having a respiratory care license. The employee is Charlotte Miller and she worked from November 2007 to November 2008 without having obtained a permanent license. Ms. Miller herself discovered this was the case when she went online to renew her license. Ms. Miller then contacted the Human Resources Department to alert them to the issue. Ms. Little explained at the time Ms. Miller was hired she had a temporary permit and submitted a copy of that permit. She stated Ms. Miller is an exemplary employee and it never occurred to them to double check that she had obtained a license. Ms. Little stated Ms. Miller was placed on suspension as soon as they learned she was not licensed. Ms. Little supplied the Committee with copies of the hospital's administrative policies noting that they check on license renewals every two years. She stated since this occurrence with Ms. Miller they have had discussions about new policies for checking on licensure with new graduates and the Human Resources Department will also be keeping copies of all licenses.

V. ADMINISTRATIVE HEARINGS

A. State of Indiana v. Stephen Aponte R.C.P., License No. 30004816A

Administrative Cause No. 2005 RCC 0014

Re: Order to Show Cause and Notice of Proposed Default

Parties and Counsel Present:

Respondent was present and was not represented by Counsel
Heather Kennedy, Deputy Attorney General for the State of Indiana
Felicia Warren, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: On October 31, 2008 the Committee issued an Order to Show Cause due to the Respondent's noncompliance with the probationary terms as set forth in the Findings of Fact, Conclusions of Law and Order of February 27, 2007, in that Respondent has not submitted quarterly reports from his employer and attendance of three (3) Alcoholics or Narcotics Anonymous meetings per week for the months of July and October 2008. The State asked the Committee to issue a Notice of Proposed Default since the Respondent was not present. The Committee issued a Notice of Proposed Default Order on February 9, 2009. The Respondent submitted a timely letter dated February 12, 2009 asking the Committee not to find him in default. The letter stated he was unable to attend the scheduled hearing due to his job responsibilities and he took full responsibility for not giving adequate notification about his inability to attend. The Respondent reiterated at this hearing that between work and school he was so busy he lost track of the day of the hearing. He stated he is currently working at LaPorte Hospital but not as a respiratory therapist. He stated he has done biomedical engineering since 2003 and the education he is obtaining pertains to that field. The State requested the Committee decide at this time if they will set aside the Notice of Proposed Default. The State noted they had no objection.

Committee Action: A motion was made and seconded to set aside the Notice of Proposed Default and proceed with the Order to Show Cause hearing.

KONKLE/PARK-TEELON

Motion carried 3-0-0

On March 5, 2009 an Order to Show Cause was issued by the Committee due to the Respondent's failure to comply with the terms of his Probation Order issued on February 27, 2007. Mr. Aponte stated he has not complied with the terms of his probation because he has been busy going to school and working at LaPorte hospital. Respondent entered into evidence Exhibit 1 - copies of his transcripts showing courses he completed. Respondent testified before the Committee that he did not comply with his probationary terms in that he failed to submit timely quarterly reports from his employer or attend three (3) AA/NA meetings per week. Respondent did submit a letter from his employer at the April hearing. The Committee has not received any reports from him since April 2008. The Committee advised him that in order to keep his license in good standing he has to comply with the terms of probation and not getting anything from him in the past year does not demonstrate

compliance and in no way will sway the Committee to release him from probation. Respondent says he does not feel comfortable letting his license go and does not want to say he will never work in that field again. He was asked if he completed the continuing education in the last biennium. He stated he believed he had. The respondent admitted that he has failed to comply with the terms. Advisory counsel noted he has previously been in this situation and his license was suspended. The Committee needs to determine if they want to impose additional sanctions. He says the last AA meeting he attended was last month. He also stated he had a glass of wine on Easter Sunday and had one at Christmas. He stated he does not drink beer or alcohol.

Committee action: After hearing testimony and reviewing evidence submitted, a motion made and seconded to continue probation for six (6) months and may not request modification for that time. He is to be given a letter of reprimand, a fine of one thousand dollars (\$1,000.00) payable within 60 days of final order and requested monthly reports from his employer and him showing attendance of three (3) AA meetings per week.

1. Respondent shall continue on **INDEFINITE PROBATION**. Respondent cannot petition for withdraw of said probation for a period of six (6) months from the date of the Final Order.

2. Respondent must pay a **FINE** payable to the Indiana Professional Licensing Agency in the amount of **ONE THOUSAND DOLLARS (\$1000)** within sixty (60) days of the Final Order.

3. A **LETTER OF REPRIMAND** will be placed in Respondent's permanent file at the Indiana Professional Licensing Agency.

4. Respondent's requirement to submit quarterly reports to the Committee from his supervisor(s) apprising the Committee of the Respondent's job performance, attendance, any concerns regarding the Respondent's decision-making, and/or impaired behaviors is modified to monthly reporting.

5. Respondent's requirement to submit quarterly reports of his attendance at three (3) Alcoholics or Narcotics Anonymous meetings per week to the Committee is modified to monthly. Reports shall indicate the location of the meetings, dates and times of the meetings attended and verification of attendance by a responsible member of the facility holding the meeting or other responsible attendee. Respondent shall also include his comments regarding the degree to which he found the meetings helpful.

6. Respondent shall comply with all other terms and conditions stated in the Findings of Fact, Conclusions of Law and Order filed on February 27, 2009 and Decision on License Renewal filed April 13, 2005.

7. Respondent further understands that a violation of the Final Order or any non-compliance with the statutes or regulations regarding the practice of respiratory care may result in the State requesting an emergency suspension of Respondent's license, an Order to Show Cause as may be issued by the Committee, or a new cause of action pursuant to Indiana Code § 25-1-9-4, any or all of which could lead to additional sanctions, up to and including a revocation of Respondent's license.

KONKLE/PARK-TEELON
Motion carried 3-0-0

B. State of Indiana v. Maureen Beeler, R.C.P., License No. 30005718A
Administrative Cause No. 2005 RCC 0003
Re: Respondent's Motion to Reinstate

Parties and Counsel Present:

Respondent was present and was not represented by Counsel
Heather Kennedy, Deputy Attorney General for the State of Indiana
Felicia Warren, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)

Ms. Park-Teelon

Mr. Smith

Case Summary: Respondent petitioned Committee to reinstate her respiratory care license. Ms. Beeler's license was suspended for not complying with a 2004 continuing education audit. A complaint was filed on February 22, 2006 for noncompliance of the continuing education audit but Ms. Beeler failed to appear for the hearing on July 14, 2006. Her license was suspended on July 21, 2006 for failure to appear and comply with the continuing education requirement. Ms. Beeler stated that she does. Respondent stated she did have continuing education hours but was having trouble in her life at that time and she was terminated from her respiratory care job. Ms. Beeler left healthcare profession. She stated that she has not renewed her respiratory care practitioner license and has not taken continuing education courses since that time. Respondent entered into evidence Exhibit #1 which is proof of her continuing education from the audit period. She intends to attend an upcoming Kettering Conference. She updated her address to 618 South 16th Street, Apt. 1, Lafayette, Indiana 47905.

Committee Action: A motion was made and seconded approve the reinstatement of her license on the condition that she submits a renewal application along with the required fee and documentation of completion of the required continuing education hours.

KONKLE/PARK-TEELON

Motion carried 3-0-0

C. State of Indiana v. Susan Cate, R.C.P., License No. 30006740A

Administrative Cause No. 2006 RCC 0008

Re: Petitioner's Request to Withdraw the Order of Probation

Parties and Counsel Present:

Respondent was present and was not represented by Counsel

Heather Kennedy, Deputy Attorney General for the State of Indiana

Felicia Warren, Court Reporter

Participating Committee Members:

Mr. Konkle

Ms. Park-Teelon

Mr. Smith

Case Summary: The Respondent petitioned the Committee to withdraw her probation. Ms. Cate stated that she has not worked since December 31, 2008. Her last employer was Wesley Healthcare where she had been there for two (2) years. There was an incident on Christmas Day where she observed what she thought was negligence of a patient by a Certified Nurse Assistant. But this Certified Nurse Assistant had a mother who was a nurse at the facility and she followed the respondent until she found a reason to write her up and ultimately the respondent was fired. The other write up she had stemmed from a patient complaint of whom was impatient with her not performing a treatment as soon as he got off a phone call. Ms. Cate has been interviewing for jobs but her probation status is preventing her

employment. Ms. Cate has complied with all terms of the probationary order. The state does not object to Respondent's request.

Committee Action: A motion was made and seconded to grant the Respondent's request and withdraw the Probationary Order.

KONKLE/PARK-TEELON

Motion carried 3-0-0

D. State of Indiana v. Dirk J. Everhart, R.C.P., License No. 30005979A

Administrative Cause No. 2009 RCC 0008

Re: Petition for Review of the Denial of Petitioner's Application for Renewal of Respiratory Care License

Mr. Everhart requested a continuance in this matter. The hearing was rescheduled for July 17, 2009.

VI. NOTICE OF PROPOSED DEFAULT/DISMISSAL

There was no notice of proposed default/dismissal before the Committee.

VII. VOLUNTARY SURRENDER OF LICENSE

There were no voluntary surrenders before the Committee.

VIII. SETTLEMENT AGREEMENTS

There were no settlement agreements.

IX. OLD/NEW BUSINESS

There was no old/new business to discuss.

X. DISCUSSION

There were no discussions made by the Committee.

XI. APPLICATION REVIEW

A. Endorsement

1. Ann Cygan

Ms. Cygan presented her application for respiratory care licensure by endorsement. She is a 1976 graduate from Northwestern University Affiliated Hospitals School of Respiratory Therapy and has taken and passed the National Board of Respiratory Care Examination on June 3, 1978. She is currently licensed in the state of Illinois. Ms. Cygan submitted a transcript which did not have a school seal. Stephen Thompson, Associate Professor at National-Louis University in Skokie, Illinois, submitted a letter regarding Ms. Cygan's enrollment at the college and that the program ceased operations in 1988.

Committee Action: A motion was made and seconded to grant Ms. Cygan a respiratory care license.

KONKLE/SMITH
Motion carried 3-0-0

B. Examination

There were no examination applications to review.

C. Credentials

There were no credential applications to review.

D. Temporary Permits

There were no temporary permits to review.

E. Student Permits

There were no student permits to review.

XII. PROBATIONARY REPORT

XIII. CONTINUING EDUCATION

There was no continuing education for review.

XIV. OTHER ITEMS FOR CONSIDERATION

1. Pat Ingle

Question asked about board giving an opinion regarding sleep being a part of respiratory care. If they are titrating CPAP and doing procedures listed in scope of practice then yes. The neurological component is not delineated in the scope of practice. There is language about cardiopulmonary diagnostics and sleep testing does involve monitoring this during a sleep test. Mr. Konkle believes one can infer that sleep testing is included in the scope of practice. If the duties in a sleep test are listed in the scope of practice then one can infer that sleep testing can be done by a respiratory care practitioner.

2. Sheri Bates

Question about continuing education – has anyone submitted an application for continuing education approval to the Committee about S.T.A.B.L.E. program? Mr. Konkle stated that this is not an approved program because it is a nursing program and not a respiratory program. 1

XV. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana Respiratory Care Committee adjourned at 12:30 p.m.


Thomas Konkle, Chairman


Date